

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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FISCAL IMPACT STATEMENT

LS 7096

BILL NUMBER: HB 1123

NOTE PREPARED: Dec 23, 2006

BILL AMENDED:

SUBJECT: Mobile telephone numbers.

FIRST AUTHOR: Rep. Cherry

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill prohibits a person from knowingly: (1) including or publishing mobile telephone number information in a telephone directory; or (2) providing or selling mobile telephone number information to another person for inclusion or publication in a directory; without the prior authorization of the mobile telecommunications service customer. The bill also prohibits a person from knowingly: (1) including mobile telephone number information in a directory assistance database; (2) disclosing mobile telephone number information through a directory assistance service; or (3) providing or selling mobile telephone number information to another person for those purposes; without the customer's prior authorization. This bill sets forth acceptable methods for obtaining a customer's prior authorization.

The bill provides that a violation of a prohibited act is: (1) a Class B misdemeanor; and (2) a deceptive act actionable by the Attorney General. The bill also provides that a subsequent violation is a Class A misdemeanor. This bill provides a cause of action for: (1) damages, for a customer aggrieved by a violation; and (2) injunctive relief, for any person aggrieved by a violation.

Effective Date: July 1, 2007.

Explanation of State Expenditures: *Attorney General Expenditures:* This bill will have an indeterminable impact on the expenditures of the Attorney General's (AG) Office in bringing an action for the commission of a deceptive act. The impact will ultimately depend upon the administrative actions of the AG's Office in using their statutory discretion in deciding whether to bring an action for a deceptive act. It is estimated that any increase in expenditures could be offset by IC 25-5-0.5-4(c), which allows the court to order the violator to pay the state the AG's reasonable investigation costs and costs of bringing the action. Furthermore, IC 25-5-0.5-4(g) allows the AG's Office to recover on behalf of the state from the person committing the deceptive

act a civil penalty not exceeding \$5,000 per violation. Civil penalties are deposited in the state General Fund.

Explanation of State Revenues: In addition to committing a deceptive act actionable by the AG, the bill provides that any person commits a Class B misdemeanor when the person knowingly, and without prior authorization of the mobile telephone customer:

- (1) includes or publishes a mobile telephone number (mobile number) in a telephone directory;
- (2) provides or sells mobile numbers to another person for inclusion in a directory;
- (3) includes mobile numbers in a directory assistance database;
- (4) discloses mobile numbers through a directory assistance service; or
- (5) provides or sells mobile numbers to another person for purposes (3) and (4).

The bill also provides that any subsequent violation is a Class A misdemeanor. If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase.

Penalty Provision: The maximum fine for a Class B misdemeanor is \$1,000, and \$5,000 for a Class A misdemeanor. Criminal fines are deposited in the Common School Fund.

Court Fees: If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the judicial salaries fee (\$15), the public defense administration fee (\$3), the court administration fee (\$2), the judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

Explanation of Local Expenditures: *Penalty Provision:* A Class B misdemeanor is punishable by up to 180 days in jail. A Class A misdemeanor is punishable by up to one year in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Explanation of Local Revenues: *Court Fees:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

State Agencies Affected: Attorney General.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources:

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